

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ART SHY, et al.

Plaintiffs,

v.

NAVISTAR INTERNATIONAL
CORPORATIONAL, et al.

Defendants.

SUPPLEMENTAL BENEFIT
COMMITTEE OF THE NAVISTAR
INTERNATIONAL TRANSPORTATION
CORP. RETIREE SUPPLEMENTAL
BENEFIT PROGRAM,

Intervenor-Plaintiff,

v.

NAVISTAR INTERNATIONAL
CORPORATION,

Defendant.

Case No. C-3-92-333
Judge Walter Herbert Rice

NOTICE OF RECENT RELEVANT AUTHORITY

COMES NOW the Supplemental Benefit Committee of the Navistar International Transportation Corporation Retiree Supplemental Benefit Program (the "Committee"), by and through its undersigned counsel, and brings to this Court's attention the recent decision of the Sixth Circuit Court of Appeals in the matter of *Shy v. Navistar Int'l Corp., et al.*, Nos. 11-3215/4143, issued on December 14, 2012, and to which the Sixth Circuit issued a mandate on January 8, 2013. The opinion, attached hereto, is relevant to the Committee's Motions to

Intervene and to Enforce the Settlement Agreement, filed on March 23 and March 26, 2012, respectively. (*See* Docket Nos. 394, 395.)

First, the Sixth Circuit recognized that that the *Shy* Settlement Agreement is a consent decree and that this Court retained "continued jurisdiction over [. . .] for the purposes of implementing, enforcing and administering the Settlement Agreement and exhibits thereto." Second, the Sixth Circuit opined that the Agreement should be interpreted as written where the terms are clear. As set forth in our earlier pleadings, the Plan adopted by the *Shy* Settlement Agreement provides that (1) the Committee has authority to undertake any such actions as are necessary to carry out its duties under the Agreement (*see* Agreement, Ex. B § 6.2(i)); and (2) it is the Committee's responsibility to review and enforce Navistar's compliance with their obligations under the Agreement. (*See id.* at §6.2(d).)

Respectfully submitted,

/s/ Kevin L. Murphy
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of January, 2013, a copy of the foregoing was electronically served on all parties by operation of the Court's CM/ECF system and copies mailed to those parties to whom electronic notice has not been sent.

/s/ Kevin L. Murphy
Kevin L. Murphy

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